

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION NO.11692 of 2016

ORDER :

The petitioner, who is A7, in Crime No.25 of 2016 of Nandalur Police Station, Y.S.R. Kadapa District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in the above crime initially registered for the offences punishable under Sections 307, 324 and 109 of IPC, but later altered to Sections 302, 324 and 109 read with Section 34 of IPC

The averments in the First Information Report are as under:

On 27.04.2016, at about 04.00 p.m., near Mahalaxmi temple, A1-A6 formed themselves into a group and attacked the informant and his father with iron rods and sticks with a view to take revenge and assert dominance on the informant and his family. It is alleged that A7, who is the petitioner herein instigated others to commit the said offences. The averments in the report also show that A1 and A2 threatened the informant and his father stating that nobody would stop them and so saying attacked the deceased on his head, stomach and chest. Due to the said attack, the deceased sustained bleeding injuries and fell on the ground. When the informant tried to intervene, the other accused attacked him with iron rods and sticks causing injuries on right shoulder and back side of his right leg. When the mother of the informant by name Smt.Savitramma, came to his rescue and questioned them, then Doopati Maramma (A4) and Doopati Penchamma (A5) are alleged to have attacked the mother of the informant. When the paternal aunt of the informant came to know about the attack and questioned the accused about the same, then A2 beat her with stick on her hand due to which her hand got fractured. Because of the injuries and as they are few in number,

the informant and others could not resist the attack made by the accused. Immediately, the informant informed to the police station at Nandalur and in the meanwhile 108 ambulance came to the spot and the injured was shifted to Government Hospital, Rajampet, wherein, the doctors gave first aid and advised to take the patient to Ruya Hospital, Tirupati. Thereafter, the informant shifted the deceased to SVIMS hospital, Tirupati, wherein, the doctors advised to take him to the hospitals of Chennai or Eluru immediately. Subsequently, the mother of the informant and his aunt took the deceased to M.G.Ramachandra Hospital, Chennai, under the supervision of doctor in an ambulance and as such there was a delay in lodging a report.

Learned counsel for the petitioner mainly submits that the allegations made in the report are false and invented for the purpose of the case. He further submits that the petitioner who is aged about 65 years lost his son recently in an accident and as such sought indulgence of this Court.

Learned public prosecutor opposed the application contending that since the First Information Report refers to presence of the petitioner, question of granting anticipatory bail does not arise.

A perusal of the first information report would show that A1 to A6 participated in the incident causing injuries not only to the deceased, but also to his family members and also to the informant, who is the son of the deceased. Soon after the attack, the deceased was taken to a Government Hospital, Rajampet, thereafter to SVIMS Hospital, Tirupati and subsequently to a hospital at Chennai, where he died due to serious injuries. Insofar as the role of the petitioner is concerned, it is alleged that he instigated the other accused to attack the deceased. A reading of the order rejecting bail would show that

the present incident took place when the second son of Renangi Ramanaiah, by name Panchalaiah, refused to marry the daughter of A3 and due to village supremacy, the above incident was taken place at the instigation of A7. The grievance of the petitioner is that a case was initiated before the National Consumer Forum at the death of his son against the doctors and also against the hospitals at Tirupathi and Chennai and hence, he has been implicated in the present case.

It may be true that there was a death of his son in a road accident, in the month of 2014. Two years, thereafter, the petitioner is alleged to have initiated proceedings before the National Consumer Disputes Redressal Commission, New Delhi, seeking compensation. Merely because the proceedings were initiated before the Consumer Forum, it cannot be said that the averments made in the report, more particularly, by the injured witnesses can be rejected out right, at this stage.

However, it is to be noted that the petitioner is aged about 65 years and no overt act with regard to attack on the injured or the deceased is attributed against him and hence, the petitioner, if so advised shall surrender before the concerned Court and move an application for grant of bail before appropriate Court after giving prior notice to the Public Prosecutor, in which event the same shall be considered on the same day, in accordance with law.

Accordingly, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

23.08.2016
vhb